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In Re Application Of: Brian G. Agee, et. al.
Serial No. 09/878,789 || 09/879,459
Filed: 06/10/01 06/11/01
For: Method and Apparatus for
Optimization of Wireless Multipoint...

Examiner:
Group Art Unit: 2661 || 2681
Atty. Docket No:
Date: Oct. 8, 2002

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OCT 10 2002

OFFICE OF PETITIONS

THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

PETITION TO REVIVE & TREAT AS AMENDMENT

The invention at issue was filed on June 10, 2001. Immediately, the need for a number of corrections was realized as the Attorney realized (the next morning) that a draft version of the specification had been sent. The full version was filed on June 11, 2001, with indication that it was a correction for the previous day's filing. Attorney presumed that the Patent Office would treat this as a Preliminary Amendment under 608.04(b).

Two Notices to File Corrected Application Papers were received. The first indicated that it was for the application papers filed on June 10, 2001, which had been assigned both the application number 09/878,789 and Group Art Unit 2661. The second indicated that it was for the application papers filed on June 11, 2001, which had been assigned both a different application number, 09/879,459 and a different Group Art Unit, 2681.

Attorney was confused as to what remedy to seek at this time; a single application had been turned into two competing ones. The Notices were set out on the desktop to research the proper response.

Unfortunately, that June, 2001, Attorney experienced a major computer failure. Recovering from that required upgrading of his operating system, re-installation of most of his application software, recovery of most of his files, and upgrading and searching for new replacements for outmoded and no longer available applications. The change in

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operating system resulted in the loss of both his automated calendaring system and the data contained therein. It also temporarily reshuffled the entirety of his desk surface.

It was believed that the paper files had managed to limit the disaster. Then, when reviewing other files in response to a client's request, attorney came across the misplaced Notices to File Corrected Application Papers. Attorney has only just discovered and confirmed the error and unintentional non-response.

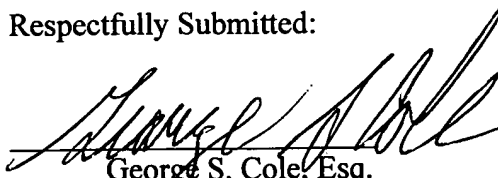
At no time had there been any intent to abandon the application, which is correctly shown in the papers given the Serial Number 09/878,789; the entire delay was entirely unintentional. The attorney has completed the Corrected Application Papers and is filing the same with the petition to revive.

It is requested that the two files be merged, with the second filing (09/879,459) being treated as a Preliminary Amendment, and the single, now-corrected application be assigned to a single Art Unit.

Payment for the Petition to Revive is included, as is specific authorization to charge attorney's deposit account. Permission is requested and authorization is also granted to charge as may be appropriate for requisite extension of time.

If the Patent Office has already received a corrected application it is humbly asked to return a copy thereof to the Attorney for his permanent files.

Respectfully Submitted:



George S. Cole, Esq.
PTO #40,563



**CORRECTIONS TO APPLICATION PAPERS
REQUESTED**

(1) An abstract has been provided, as requested in both the Notice for SN 09/878,789 and SN 09/879,459.

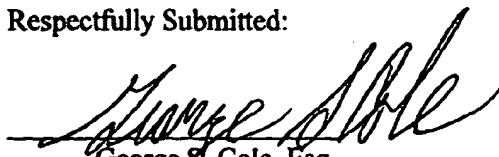
(2) All spacing has been corrected to be a minimum of 1 and 1/2 lines (excluding mathematical sub-and-superscripts to their base line), as requested in the Notice for SN 09/878,789.

(3) The drawings were stated to be missing in the the application papers filed on June 11, 2001, which was assigned application number 09/879,459 and to Group Art Unit 2681. A complete set had already been filed with the application papers which were filed on June 10, 2001, which was assigned both the application number 09/878,789 and to Group Art Unit 2661. A copy of those drawings is included.

(4) The basic filing fee and additional claim fees, requested in the Notice for SN 09/878,789, were authorized to be drawn from Attorney's Deposit Account, 50-0705, in the Fee Transmittal accompanying that set of application papers (a copy of which is enclosed). Authorization is again specifically granted, but a check for the requested balance due of \$1,189.00 is also enclosed.

(5) If there are any further corrections requested, please contact attorney either by telephone at (650) 556-9510, or email at GSCdLawyer@aol.com.

Respectfully Submitted:


George S. Cole, Esq.
PTO #40,563

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